

REMARKS

Claims 1-30 are pending. By this amendment, claims 1, 10-12, 16, 19, 24 and 26 are amended, and claims 17, 20, and 29 are cancelled. Support for the amendments can be found at least at page 4, line 23-page 5, line 4; and page 6, lines 2-4 of the specification. No new matter is introduced. Reconsideration and issuance of a Notice of Allowance are respectfully requested.

Claim Rejections Under 35 U.S.C. § 101

On page 3 the Office Action rejects claims 10-15, 16-23 and 24-30 are rejected under 35 U.S.C. § 101 based on Supreme Court Precedent, and recent Federal Circuit decisions, the Office's guidance to examiners is that a § 101 process must (1) be tied to another statutory class (such as a particular apparatus) or (2) transform underlying subject matter (such as an article or materials) to a different state or thing to a different state or thing.

Independent claims 10, 16, and 24 have been amended to tie the process to a computer including a processor, which is a statutory class. Withdrawal of the rejections of claims 10-15, 16-23, and 24-30 under 35 U.S.C. § 101 is respectfully requested.

Claim Rejections Under 35 U.S.C. § 103

On page 5 of the Office Action rejects claims 10-15, 16-23, 1-9, 24-30 are rejected under 35 U.S.C. § 103(a) over (1) AAPA (applicant admitted prior art) in view of (2) "HP's New iCOD Solutions Offer Immediate Additional Server Capacity at Low Risk," November 17, 1999 (hereafter Article 11/1999), and further in view of (3) U.S. Patent 5,778,315 to Proietti (hereafter Proietti).

Claims 17, 20, and 29 have been cancelled, rendering the rejections of claims 17, 20, and 29 moot.

Regarding claim 10, as noted in the September 24, 2008 Response, AAPA describes a system that measures the total number of CPUs in a *single computer system*, as opposed to a *plurality of computer systems within a network*. Indeed, the Office Action acknowledges at least on page 6 that AAPA does not disclose or suggest allowing payment-free transfer of active assets from one iCOD computer to another iCOD computer *within the network*. Similarly, AAPA does not disclose or suggest summing the quantity of *inactive* assets of at least one asset class for *all of the plurality of iCOD computers on the network*.

Article 11/1999 does not cure AAPA's defect and does not disclose or suggest summing the quantity of inactive assets of at least one asset class for all of the plurality of iCOD computers on the network and transferring active assets from one iCOD computer to another iCOD computer within the network without payment from a user. Applicant

respectfully traverses the Office Action's assertions on pages 7-8 that Article 11/1999 teaches, at page 1, paragraphs 4, 5 and page 2, paragraph 2, allowing *payment-free transfer* of active assets from one iCOD computer to another iCOD computer within the network because "when customers' needs change and they need more processing power, they can instantly activate the needed processors with a simple HP-UX command and there will be no charge for activation," (emphasis in the original). First, nowhere do the cited passages (or anywhere else of Article 11/1999) mention that "there will be no charge for activation." Paragraphs 4 and 5 of page 1 of Article 11/1999 merely describe that a customer can instantly activate the needed processors (i.e., assets) with a simple HP-UX(1) command, without specifying when and how a payment is processed. Payment information is specifically addressed in paragraph 2 of page 2, which provides that "there will be no charge for *inactive* processors, and *upon activation*, then-current HP upgrade *pricing*, terms and conditions *will apply*," (emphasis added). Reading together, it is apparent that a customer must pay for activating an inactive processor, contrary to the Office Action's assertion.

Further, nowhere does Article 11/1999 disclose or suggest *summing* the quantity of *inactive* assets of at least one asset class for *all of the plurality of computers within the network* and actually *transferring active assets* from one computer to another computer *within the network* without payment from a user.

Proietti is directed to an integrated mobile unit location services and cellular telephone services. However, Proietti does not cure AAPA and Article 11/1999's defect and does not disclose or suggest summing the quantity of inactive assets of at least one asset class for all of the plurality of computers within the network and actually transferring active assets from one computer to another computer within the network without payment from a user.

To the contrary, amended claim 10 recites: "using the processor to sum the quantity of inactive assets of the at least one asset class for all of the plurality of iCOD computers on the network, thereby obtaining a sum of inactive assets for the at least one asset class; ... using the processor to transfer active assets from one iCOD computer to another iCOD computer within the network without payment from a user." As noted above, AAPA, Article 11/1999, and Proietti, individually and in combination, do not disclose or suggest these features. Therefore, amended claim 10 is patentable.

Claims 1, 16, and 24 recite features similar to those of claim 10, and for this reason, claims 1, 16, and 24 also are patentable.

Claims 2-9 depend from patentable claim 1; claims 11-15 depend from patentable claim 10; claims 18-19 and 21-23 depend from patentable claim 16; and claims 25-28 and 30

depend from patentable claim 24. For these reasons and the additional features they recite, claims 2-9, 11-15, 18-19, 21-23, 25-28, and 30 also are patentable.

Withdrawal of the rejection of claims 1-16, 18-19, 21-28, and 30 under 35 U.S.C. §103(a) is respectfully requested.

On page 11 of the Office Action rejects claims 10-15, 16-23, 1-9, 24-30 under 35 U.S.C. 103(a) over (1) AAPA in view of (2) U.S. Patent 6,088,451 to He et al. (hereafter He) or U.S. Patent 6,601,016 to Brown et al. (hereafter Brown), and further in view of (3) Proietti. This rejection is respectfully traversed.

He is directed to a security system and method for network element access. Brown is directed to a method for monitoring fitness activity across diverse exercise machines utilizing a universally accessible server system. However, He and Brown do not cure AAPA and Proietti's defect and does not disclose or suggest summing the quantity of inactive assets of at least one asset class for all of the plurality of computers on the network and actually transferring active assets from one computer to another computer within the network without payment from a user. Therefore, amended claims 1, 10, 16, and 24 are patentable over AAPA, He, Brown, and Proietti.

Claims 2-9 depend from patentable claim 1; claims 11-15 depend from patentable claim 10; claims 18-19 and 21-23 depend from patentable claim 16; and claims 25-28 and 30 depend from patentable claim 24. For these reasons and the additional features they recite, claims 2-9, 11-15, 18-19, 21-23, 25-28, and 30 also are patentable.

Withdrawal of the rejection of claims 1-16, 18-19, 21-28, and 30 under 35 U.S.C. §103(a) is respectfully requested.

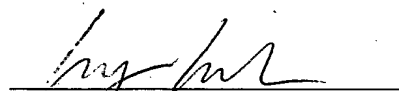
Conclusion

In view of the above remarks, Applicant respectfully submits that the application is in condition for allowance. Prompt examination and allowance are respectfully requested.

Should the Examiner believe that anything further is desired in order to place the application in even better condition for allowance, the Examiner is invited to contact Applicant's undersigned representative at the telephone number listed below.

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Respectfully submitted,



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